

no objections passed on 24 July

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	X	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
8. FOIA Officer		
9. Constituent Inquiries Officer		
10. <i>DD/OCA</i>		X
11.		
12.		

SUSPENSE

24 JUL 89

Date

Action Officer:

Remarks:

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YOU.

no objections
24 July 89

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Name/Date

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCA 2405-89

URGENT**URGENT**

OCA FILE

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TO:

Commerce - Levitt - 322-3151

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Defense - Brist - 697-1305

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CIA -

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NSC - Lamprey x3033

ACDA - Rifkin 647-8428

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FROM:

Ron Peterson (395-7300) -- Please provide your comments
on the attached State letter regarding a proposed amendment
to HR 2461, the Defense Authorization bill. The amendment concerns
missile proliferation sanctions, for which State
expresses serious procedural and substantive concerns.

NUMBER OF PAGES TO FOLLOW:

2

DATE:

7/24/89 --

TIME:

10:30 A.M.

NOTE - Your response is needed by no later than
4:30 P.M. Today. H.R. 2461 will be on the

LEGISLATIVE REFERENCE DIVISION
ROOM 7230
WASHINGTON, D.C. 20503

cc: Jim Nix
Steve Bolton
C. Boyden Gray

House floor starting today. Comments may
also be telephoned to Jeff Ashford
(395-3920)

July 24, 1989

Dear _____:

On behalf of the Administration, I/we would like to express our strong opposition to the proposed amendment to the Defense Authorization legislation (H.R. 2461) regarding missile proliferation. We have serious procedural and substantive concerns about the amendment, including the following.

Procedurally, we are concerned that legislation on a matter as critical and complex as missile proliferation is proposed for floor action without benefit of hearings and mark-up, thereby precluding meaningful review.

The Administration is strongly committed to stemming missile proliferation by strengthening the Missile Technology Control Regime (MTCR) and encouraging other countries to restrict the transfer and development of missiles and related equipment and technology. However, the multilateral Missile Technology Control Regime (MTCR) cannot be the basis for imposing unilateral U.S. sanctions on companies or countries.

The MTCR is a multilateral arrangement under which each partner is responsible for implementing the MTCR guidelines in accordance with national legislation. The decision to approve an export, consistent with the broad MTCR guidelines, depends on the destination, the end-user and end-use, the given assurances, and past practice with similar exports by other MTCR partners, as well as other factors. It is impossible to predict, as the amendment would seem to require, the decision of the U.S., or to second-guess decisions already made by foreign governments.

Furthermore, making the U.S. the unilateral enforcer of the MTCR, and the policeman of global missile proliferation, will undermine the level of cooperation already achieved and be counterproductive to the regime's objectives. The success of non-proliferation efforts depends upon cooperation among the MTCR adherents as well as other concerned countries. These countries alone, and not the U.S., are in a position to enforce their laws and regulations.

In addition, linking the MTCR to unilateral U.S. sanctions will severely diminish, if not preclude, the willingness of other countries to adhere or to consider adhering to the regime. Furthermore, many foreign companies would not be affected by sanctions; absent a U.S. monopoly on missile equipment and technology, seeking the cooperation of our partners is the only realistic approach to achieve our common goal. Finally, unilateral U.S. measures would also have an immediate, chilling effect on the exchange of information that is essential among MTCR partners.

The text of this letter has been cleared by OMB. Identical letters have been sent to

Examples

1. Sanctions would apply to an export that was licensed by a non-MTCR country, e.g. Switzerland.
2. Sanctions would also apply to an export deemed by an MTCR partner not to require an export license, were the U.S. to determine that it would have reviewed and denied the export under the MTCR guidelines.
3. Sanctions would be imposed on any U.S. or foreign person, or foreign country, who in had in good faith predicted that a proposed transaction would not be subject to the MTCR guidelines, or would not be denied by the U.S.
4. A German company exporting from Germany under a German export license would be exempt from sanctions. However, a Swiss company exporting the same item from Germany could be punished, as could either company if the export were from Switzerland.